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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,477	09/29/2004	Hendrik Roelof Stapert	NL 020267	8077
24737 7590 11/28/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
YL, STELLA KIM				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
11/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/509,477

**Applicant(s)**

STAPERT ET AL.

**Examiner**

Stella Yi

**Art Unit**

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

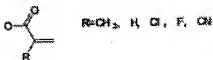
- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Applicant's election of species A for component Z, species B for component Y, and species A for component X in the reply filed on August 18, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Upon further consideration, additional election of species is required. This application contains claims directed to the following patentably distinct species:

- a) Please specify R group for Component Z – Species A by selecting one species from the following:



Species A1:  $R=CH_3$

Species A2:  $R=H$

Species A3:  $R=Cl$

Species A4:  $R=CN$

- b) Additionally, please specify R, R', A, n, m groups for Component X – Species A by selecting one from the following species:



Species A1:  $R=H, R'=alkyl, n=0, m=0$

Species A2:  $R=H, R'=alkyl, n=0, m=1$

Species A3: R=H, R'=alkyl, n=0, m=2

Species A4: R=H, R'=alkyl, n=0, m=3

Species A5: R=H, R'=alkyl, n=1, m=1

Species A6: R=H, R'=alkyl, n=2, m=1

Species A7: R=H, R'=alkyl, n=3, m=1

Species A8: R=H, R'=alkyl, n=1, m=2

Species A9: R=H, R'=alkyl, n=2, m=2

Species A10: R=H, R'=alkyl, n=3, m=2

Species A11: R=H, R'=alkyl, n=1, m=3

Species A12: R=H, R'=alkyl, n=2, m=3

Species A13: R=H, R'=alkyl, n=3, m=3

Species A14: R=alkyl, R'=alkyl, n=0, m=0

Species A15: R= alkyl, R'=alkyl, n=0, m=1

Species A16: R= alkyl, R'=alkyl, n=0, m=2

Species A17: R= alkyl, R'=alkyl, n=0, m=3

Species A18: R= alkyl, R'=alkyl, n=1, m=1

Species A19: R= alkyl, R'=alkyl, n=2, m=1

Species A20: R= alkyl, R'=alkyl, n=3, m=1

Species A21: R= alkyl, R'=alkyl, n=1, m=2

Species A22: R= alkyl, R'=alkyl, n=2, m=2

Species A23: R= alkyl, R'=alkyl, n=3, m=2

Species A24: R= alkyl, R'=alkyl, n=1, m=3

Species A25: R= alkyl, R'=alkyl, n=2, m=3

Species A26: R= alkyl, R'=alkyl, n=3, m=3

Species A27: R=H, R'=H, n=0, m=0

Species A28: R=H, R'=H, n=0, m=1

Species A29: R=H, R'=H, n=0, m=2

Species A30: R=H, R'=H, n=0, m=3

Species A31: R=H, R'=H, n=1, m=1

Species A32: R=H, R'=H, n=2, m=1

Species A33: R=H, R'=H, n=3, m=1

Species A34: R=H, R'=H, n=1, m=2

Species A35: R=H, R'=H, n=2, m=2

Species A36: R=H, R'=H, n=3, m=2

Species A37: R=H, R'=H, n=1, m=3

Species A38: R=H, R'=H, n=2, m=3

Species A39: R=H, R'=H, n=3, m=3

Species A40: R=alkyl, R'=H, n=0, m=0

Species A41: R= alkyl, R'= H, n=0, m=1

Species A42: R= alkyl, R'= H, n=0, m=2

Species A43: R= alkyl, R'= H, n=0, m=3

Species A44: R= alkyl, R'= H, n=1, m=1

Species A45: R= alkyl, R'= H, n=2, m=1

Species A46: R= alkyl, R'= H, n=3, m=1

Species A47: R= alkyl, R'= H, n=1, m=2

Species A48: R= alkyl, R'= H, n=2, m=2

Species A49: R= alkyl, R'= H, n=3, m=2

Species A50: R= alkyl, R'= H, n=1, m=3

Species A51: R= alkyl, R'= H, n=2, m=3

Species A52: R= alkyl, R'= H, n=3, m=3

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 7, and 13 generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a

claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella Yi whose telephone number is 571-270-5123. The examiner can normally be reached on Monday - Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SY

/Matthew J. Daniels/  
Primary Examiner, Art Unit 1791  
11/20/08

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